

CHAPTER 13

SECTION 20.1

LEGAL OBLIGATION TO PAY

Issue Date: February 9, 1987

Authority: [32 CFR 199.4\(g\)\(11\)](#), [\(g\)\(12\)](#) and [\(g\)\(13\)](#)

I. ISSUE

Under what circumstances can TRICARE make no payment for services or supplies because the beneficiary has no legal obligation to pay for them?

II. POLICY

A. TRICARE cannot pay for services or supplies for which the beneficiary or sponsor has no legal obligation to pay or for which no charge would be made if the beneficiary or sponsor was not eligible under TRICARE. An obligation to pay is defined as a legal debt which is enforceable through a court action. The beneficiary's obligation to pay for services can be abrogated by a number of circumstances which must be judged on the merits of each situation.

B. Following are examples of common circumstances which abrogate a beneficiary's obligation to pay, but by no means is this list intended to be all-inclusive.

1. A beneficiary who has received covered services or supplies has had his debts for medical care discharged through bankruptcy.

2. A beneficiary receives services or supplies from a provider who gives a discount from his normal or standard billed charges, and the beneficiary is eligible for that discount. For example, a participating physician in a preferred provider organization (PPO) gives a twenty (20) percent discount to patients who are members of the PPO. If a TRICARE beneficiary is an enrollee in the PPO, the physician cannot bill the primary payer eighty (80) percent of his standard charge and bill TRICARE one hundred (100) percent of his standard charge. Such an action would be an attempt to receive payment for the twenty percent discount to which the beneficiary was entitled.

3. A beneficiary is enrolled in another health insurance plan and participating physicians in that plan have agreed to accept as payment in full the amount allowed by the other plan. TRICARE cannot be billed for the difference between the amount allowed by the other plan and the provider's billed charge.

4. A provider routinely waives beneficiaries' cost-shares. In such cases the real amount owed is the billed charge minus the cost-share amount. TRICARE calculations shall

be based on this reduced charge rather than the billed amount. (See [paragraph III.B.](#) under EXCEPTIONS, below, for an exception to this provision.)

5. A beneficiary is imprisoned. The cognizant state or local authorities are responsible for the medical expenses of prisoners.

6. A beneficiary is a ward of a government entity or a court. In circumstances when a beneficiary has become a ward of a government entity (state or local) or a court, whether this involves an adult or minor, the government entity or court is responsible for the medical expenses of the beneficiary. A common circumstance involves minor children for which a juvenile or probate court directs placement in a private residential treatment center and appoints a department of social services to be responsible for the child. In all such cases, the government entity or court is primarily responsible for the medical expenses of the child, notwithstanding that the state may make the parents of the child also liable for the child's expenses.

This is to be distinguished from situations such as probation, where a court requires a beneficiary to receive care, such as psychotherapy, but the beneficiary is neither under arrest nor been made a ward of the court or a ward of a government entity.

7. Calculations by a state (or local government authority) that establish a beneficiary's (or beneficiary's parents) legal obligation to pay by including TRICARE cost-sharing in the calculation.

III. EXCEPTIONS

A. TRICARE may pay amounts for which there is no legal obligation to pay in situations involving claims paid under the TRICARE/CHAMPUS DRG-based payment system or the inpatient mental health per diem payment system where the TRICARE determined allowable amount exceeds the provider's billed charge.

B. Hospitals Which Do Not Charge.

1. According to Section 1079(m) of Chapter 55, Title 10, United States Code, certain hospitals can be excepted from the requirement that a beneficiary cost-share be collected for every claim. In order to qualify for this exception the hospital must certify in writing to the responsible contractor that it will:

- a. Not impose a legal obligation of any kind on any of its patients; and
- b. Accept and treat TRICARE beneficiaries to the same extent as any other patient or category of patients; and
- c. Provide evidence that it has sources of revenue to cover unbilled costs.

2. The contractor is to ensure that payments to such hospitals do not exceed the average amount paid for comparable services in the area and that the hospital's practice of not billing patients does not result in increased costs to TRICARE.

3. Claims for professional services may qualify for this exception only when they are billed through a facility meeting the above criteria. Professional claims billed under a different Employment Identification Number (EIN) or Social Security Number (SSN) will not be exempt from imposing a legal obligation on patients for payment of their cost share or deductible.

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